

March 26, 2018

**VIA ECF**

The Honorable Sarah Netburn  
United States Magistrate Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

**USDC SDNY**  
**DOCUMENT**  
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**DATE FILED:** 4/3/18

Re: *Fire & Police Pension Association of Colorado v. Bank of Montreal et al.*,  
No. 18-cv-00342

Dear Judge Netburn:

I represent defendants Toronto-Dominion Bank, TD Securities Inc., and TD Securities (USA) LLC and write on behalf of all parties in the above-referenced action. Pursuant to the Court's Order of February 8, 2018 (ECF No. 21), the parties have conferred and jointly propose the following schedule for motion practice in accordance with Judge Torres's Individual Practices in Civil Cases, Rules III.A and III.B:

1. Defendants' initial pre-motion letter concerning a motion to dismiss the Amended Complaint (ECF No. 73) shall be served on plaintiff on or before April 20, 2018. Plaintiff's letter in response shall be served on defendants on or before May 4, 2018, and shall state, *inter alia*, whether plaintiff intends to seek to amend or stand on the Amended Complaint. *See* Individual Practices, Rule III.B.ii.
2. If plaintiff elects to seek leave to amend in response to defendants' initial pre-motion letter (*see id.*), then
  - a) plaintiff's motion for leave to amend, together with a proposed Second Amended Complaint, shall be filed on or before May 18, 2018, any opposition shall be filed by defendants on or before June 15, 2018, and any reply shall be filed by plaintiff on or before June 29, 2018; and
  - b) defendants' pre-motion letter concerning a motion to dismiss shall be filed within (i) 30 days of the Court's decision on plaintiff's motion for leave to amend, if plaintiff's motion is denied, or (ii) 30 days of the filing of the Second Amended Complaint, if plaintiff's motion is granted.

3. If plaintiff elects to stand on the Amended Complaint in response to defendants' initial pre-motion letter, defendants' second pre-motion letter concerning a motion to dismiss shall be filed with the Court on or before June 4, 2018, and plaintiff's letter in response shall be filed with the Court on or before July 3, 2018. *See* Individual Practices, Rule III.B.iii.
4. If and when the Court authorizes defendants to move to dismiss, then defendants shall have 60 days from the date on which such authority is granted to file any such motion to dismiss, and
  - a) plaintiff shall have 60 days to oppose defendants' motion, and defendants shall have 30 days to reply; or
  - b) in the event of any permitted further amendment in response to such motion to dismiss (*see* Individual Practices, Rule III.B.iv), defendants shall have 60 days from the filing of such further amended complaint to move to dismiss or otherwise respond (*see id.*), plaintiff shall have 60 days to oppose defendants' motion, and defendants shall have 30 days to reply.

For avoidance of doubt, the parties agree that the time to answer or move to dismiss is stayed except as set forth above or until further order of the Court and that, in joining this request, defendants do not waive, and expressly reserve, all of their defenses, including without limitation on grounds of lack of personal jurisdiction.

We thank the Court for its consideration.

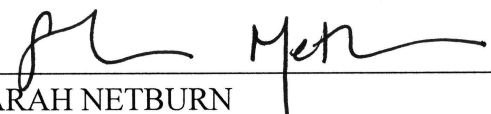
Respectfully submitted,

/s/ David Sapir Lesser  
David Sapir Lesser

cc: All Counsel of

The parties' proposed schedule is adopted in part. Defendants shall file a pre-motion letter concerning any motion to dismiss by April 20, 2018. Plaintiff's letter in response will be due by May 4, 2018. A conference shall be held to discuss these letters on Thursday, May 10, at 3:00 p.m. in Courtroom 219, Thurgood Marshall Courthouse, 40 Foley Square, New York, New York.  
**SO ORDERED.**

April 3, 2018  
New York, New York

  
SARAH NETBURN  
United States Magistrate Judge